

TOMBSTONE EPITAPH.

REPPY & PEOK, Publishers.

Fourth Street, between Fremont and Allen
Tombstone, Cochise County, Arizona.Subscription, one year..... \$4 00
Entered in the Post Office as Second-Class Matter.

OFFICIAL PAPER OF COCHISE COUNTY

The action of the Board of Supervisors in making the EPITAPH the official paper of the county, meets with very general approval—especially so in the EPITAPH office.

An "Old Hassayamper" is defined to be a man who will neither work himself nor allow anyone else to work. Until such barnacles lose their influence, Maricopa County will never experience those prosperous times which the magnificent county warrants.

The Lordsburg, N. M., people know the value of advertising. In order to locate a newspaper there, they gave Barnes, the editor, three town lots, took a whole page advertisement for a year, and subscribed for 600 copies for the same length of time.

Col. C. P. Sykes, of Calabasas, once a mining operator, has been arrested in New York, on a charge of selling Gilbert D. Lamb, 400 shares of the Arizona Cattle and Improvement Company, for \$1,000 on the false representation that the stock was valuable.

Some time ago, Commissioner Sparks made a ruling to the effect that married women could not make a desert land entry. He attempted to support this position by an argument, the substance of which was that the provision of the law which forbade a man to make more than one desert entry would be nullified by allowing his wife to make one also. Mr. Sparks overlooked the strong and rapid tendency of recent years to abolish the common law relations of husband and wife, which has already gone so far, in all or nearly all of the States of the Union, as to entirely separate the wife from her husband in her right to hold and control an estate. Secretary Lamar has overruled Sparks' decision, and the making of desert entries by married women, that has been for some time suspended, may now be resumed.

The EPITAPH does not belong to that narrow-minded class which delights in the misfortune or downfall of a business rival, and for this reason the Prospector has our sincerest sympathy in this hour of tribulation. We have substantially shown our friendship by loaning the publishers paper and ink at various times (which, by the way, has never been returned.) This is nothing, and we freely forgive them the amount. And yet we cannot too severely condemn their course in running hopelessly in debt to their printers, whom, we are reliably informed, they owe from \$35 to \$140 each. The money is due them; they have made repeated demands for it, and they should have it. It is a doctrine as old as the hills, that "the laborer is worthy of his hire," and a business that cannot pay its workmen should shut down. There isn't the least particle of malice or unkindly feeling in these remarks, for as far as the Prospector is concerned, it occupies a field which does not in the least interfere with the EPITAPH. In fact, it is to our interest that it should continue to occupy that field. But we do hope, for the sake of the printers, who have a hard enough time of it anyway, that they will be able to rattle the money and pay the boys up.

THE DIFFERENCE.
Tombstone, near the great Continental divide, may be properly called the middle ground between the East and the West. Here during the early days stocked men from Nevada and California as well as from Colorado, Texas and other States east of the Rockies. There was always a certain degree of rivalry existing between the Pacific Slopers and the Eastern men, and the superiority of each often still remains a disputed question. If there is one thing more than another upon which the Sloper prides himself, it is his open-handed liberality, and he scorns what he calls the close-fisted Yankee ways of the Eastern man.

In order to settle a long-disputed point, the EPITAPH took occasion recently to notice the peculiarities of the people from each section in this respect. In number they are about equally divided in Tombstone. In a certain block in this city there live on one side of the street seven Pacific coasters, and on the opposite side of the street the same number of people from the effete East. On each side there is one copy of the EPITAPH taken, and it is handed from one house to another until all have perused the words of wisdom in its neatly printed columns. They follow its precepts and it makes them better people. Thus is the influence of a truly good newspaper felt both East and West. But here comes in the difference: The Eastern people chip in 5 cents apiece—making 35 cents—and pay for the paper each month, while the Sloper let one man pay for it all, and he generally stands you off. Yes, when it comes down to open-handed liberality, all must admit that the Coaster carries off the palm, and that it is only in the wild free West that the doctrine of *meum et tuum* is properly understood.

When we have made a fortune, we shall seek some other place, where each man takes his local paper and pays for

it in advance, where the newsboys fly around with bundles of papers under their wings and shout, "Here's your Heavenly Messenger; all about the hanging of the Chicago Anarchists." We shall never meet any of our delinquent subscribers there—that's one consolation.

SAD ACCIDENT—TWO MEN BLOWN UP.

One of the most melancholy affairs it has ever been the EPITAPH's sad duty to chronicle, occurred on Wednesday morning last on Dusenbury Avenue, adjoining the hoisting works of the Cow-boy Chief mine. It is a well known fact that the boilers had been frequently condemned, and hence the action of two of our most respected citizens, John Johnson and Jimmy Jimmerson, in passing by these works, while on their way home from the Lodge at 2 o'clock in the morning, can be characterized as little other than foolhardy. But there had been exciting work in the seventeenth degree, and the nerves of the unfortunate victims were strained to the utmost tension, rendering them incapable of realizing their danger. Their residences were adjoining, but a few steps from the noising works. Poor men! They had been standing for several minutes upon their doorsteps vainly endeavoring to unlatch their doors with match or toothpick, when a low rumbling sound, such as precedes an earthquake, was heard. Then came a crash and a jar. And if ever two men were successfully blown up, it was them. Their wives had been waiting for them for two hours or more. Oh, how the men do suffer on the frontier!

TERRITORIAL NEWS.

The expense in connection with the insane asylum is about \$1,600 per month, this includes salaries and all other expenses. The number of inmates averages about sixty-five.

Last Thursday some Mexicans sinking an open well two miles south of the town of Yuma, struck a stream of water which shot out of the top of the well. There has been a continuous flow ever since, the body of water rising three feet above the surface of the well. The water is coming out in such a large volume that it is inundating the surrounding country.

The Territorial Fair Association has offered a prize of \$200 for a series of base ball games to be played during the fair week (17th to the 22d of October.) Entrance has been fixed at \$10. Club winning most games to get the money.

El Paso is to be made a ten company post and the people are jubilant thereat.

A company with a million proposes to improve Gila Bend.

H. Bucksbaum, county recorder of Mohave county, has absconded. Six indictments were found against him by the late grand jury for forgery and raising county warrants, amounting, it is said, to several thousand dollars.

Now that Bucksbaum has gone, the Democracy will have to get a new leader in this county.—Mohave Miner.

The train going east was held up at Navajo Spring on the night of the 16th inst. on the A. & P. road by five masked men, who went through the express and baggage cars while the train was standing at the water tank.

Recent developments tend to show that the county of Mohave has been systematically robbed during the last four years, if not for a longer period.

PERSONAL MENTION.

United States Marshal W. K. Meade and wife are now settled at the San Xavier, Tucson.

Dr. A. J. Chandler, Territorial Veterinarian, and C. M. Bruce, Chairman of the Sanitary Board, are at the Occidental.

Mr. and Mrs. Geo. W. Cheyney, with their children, returned Tuesday from California. They were detained several days in Tucson, by washouts.

Hon. Jas. A. Bayard, Territorial Secretary, with his wife and child, has gone East on a visit. They were accompanied by Mrs. Governor Zulick and daughter.

Professor Geo. A. Metcalf, principal of the Tombstone public schools, has become the proud father of a bouncing boy, the happy event taking place at Santa Barbara on the 16th inst. Mother and child doing well.

Wm. Garland of Yavapai county, has been awarded the contract for building 550 miles of road on the Mexican National road, which is in course of construction between Tres Piedras, Texas, and the City of Mexico.

Ben Goodrich, Esq., is in the city. It is to be hoped he will reconsider his determination to move to Phenix, as he has a host of friends here who will miss him, while the old Hassayampers on the raging Salt apparently do not know how to appreciate a good man.

The marriage of John Caley of Los Angeles, and Miss Georgia E. Russell, was solemnized at the residence of the bride's mother, 110½ Turk street, San Francisco, on the evening of the 12th inst. The Rev. Dr. Jenks officiated. Congratulations followed the ceremony, and then came music and dancing and the wedding supper, which prolonged the gayeties until a late hour. Among those present were, Mr. and Mrs. D. F. Fisk, Los Gatos; S. Smith, Allegan, Pa.; J. Cooper, Phenix, A. T.; Mrs. R. L. Chase, Miss A. Smith, and Miss Nellie Chase, San Francisco. The happy couple left for their future home in Los Angeles.

The Crystal Palace saloon has passed into the hands of Dick Clark, which is a sufficient guarantee that it will be run on the dead square.

MOUNTAIN MAID.

THE DECISION AGAINST HER.

The Supreme Court of Arizona Holds the Tombstone Townsite Patent to Be Paramount to the Patent to the Mountain Maid Mine.

Knowing that the most important subject now before the people of this city is the late decision of the Supreme Court in the Mountain Maid cases, the EPITAPH congratulates itself upon being the first paper in the Territory to publish the complete text of the decision. There were three cases carried up from Cochise county on appeal, namely: James Reilly vs. Bennet Blackmore, James Reilly vs. George G. Berry, and the Mountain Maid Mining company vs. James Reilly, which were reviewed by the Supreme Court at the adjourned January term, 1887. Following is the decision:

The question presented in these cases is between a title derived from the Tombstone townsite patent and that derived from a patent to the Mountain Maid mining claim. The date of entry of the townsite is April 9, 1880; the mining patent was dated August 15, 1882. February 25, 1879, there was filed a notice of location of the Mountain Maid mine. This notice is so uncertain that the land claimed cannot be identified. It is aided by no evidence whatever. November 20, 1880, the record was amended, and on August 15, 1882, a patent was issued to the land described in the amendment. This amendment was after the entry of the townsite. The mining title cannot be superior to the townsite title unless the location earlier than the townsite be held to have fixed the title. A location of a mining claim, to fix the title as against later acquired rights by entry and patent, should be sufficiently clear to designate the ground claimed, and should be marked on the ground by monuments showing the extent of possession. If the location on its face be uncertain, the uncertainty could be aided by evidence of the possession or of monuments, but a location notice on its face uncertain and without evidence of what land was occupied cannot be evidence for any purpose. An amendment afterwards made describing different land, or making certain what was uncertain, cannot revert back to the original defective location. The entry of the townsite intervening after the first location and before the amendment must be prior in right as it is prior in time. If this were not so it would open the door to great wrongs. A person might locate a mining claim, and by doing \$100 worth of work annually, he still and permit title to be acquired from a townsite, buildings to be erected, thousands of dollars to be spent, and then apply for a patent, amend his record, and swing his claim around so as to include the most valuable improvements, and hold the same under his mining claim; and there is no limit to the time he might wait. It would be monstrous to give that construction to the mining act of 1872 and the townsite act as would make such a result possible. A townsite entry upon a land not known to be mineral land at the time of entry is prior to any later acquired mining claim. (D. F. Mack vs. Hawke, 115 U. S., 392.)

We have reviewed with care the Butte City Smoke House bids, 12 Pacific Report 1, 858, and King vs. Thomas, 1b. 845. We concur with these cases in holding that all mines, mining claims and possessions held under existing laws are excluded from the terms of a townsite patent, that a mining claim located before the townsite entry is paramount thereto. We also go so far as to say that lands upon which is any mine of gold, silver, cinnabar or copper, or known to be such mineral lands at the time of a townsite entry, are not included in such townsite entry. If those cases are to be construed as holding, if minerals shall be discovered in lands conveyed by a townsite patent after the patent, and located as such, that such after discovery and location becomes paramount to a townsite patent, and takes such lands out from the operation of such patent, we do not concur with them. The question does not arise in the Smoke House cases. In the King case there is some doubt as to whether this question is passed upon. The Court in that case properly held that whether the lands were as a matter of fact mineral lands is *res adjudicata* by the patent to the mining claim. They hold that the Silver King was a valid mining claim at the time of the issuing of the townsite patent. This view of these cases will meet approbation, and clearly states the law as we understand it. The case before us, however, seeks to apply the principle to an invalid mining claim prior to the townsite patent, and without proof that any mine existed prior to the townsite entry, or that the lands were known to contain mineral veins or deposits, or that there was any possession under existing laws. This is a very different question. To hold that every purchaser of a lot under a townsite patent, who erects valuable improvements thereon, or erects upon the premises, has a chance of having his title and possession tested by the discovery of minerals sufficient in amount to sustain a mining claim, is other than we can give. The Supreme Court in the Deffenbach case seems to have had this in mind and to have decided for it, and they go on further than to hold that "the title to known mineral land cannot be acquired under a townsite patent." We therefore hold that the Tombstone townsite patent is paramount to the patent to the Mountain Maid mine. The judgments are affirmed.

W. H. BARNES, Associate.

JAS. H. WRIGHT, Chief Justice.

Gregory's restaurant is taking a place in the front rank.

F. N. Wolcott's Cash Store is now ready for business at the new location in the Otis building, on Fremont street, near the Postoffice. The choicest and freshest groceries at the lowest cash prices.

Notice.
On and after April 1st, weekly ice tickets will be sold for \$1 and upwards. Ice to weekly customers will not be delivered without tickets.
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Wolcott buys and sells for cash and hence cannot be undersold.

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Paul Bahn is offering to the people of Tombstone and the county in general, some of the best bargains in groceries and liquors ever offered in this county. His stock is new fresh and desirable canned goods, wines, candles, in fact everything sold in a first class grocery store is being sold by him at Fairbank prices.

We are now prepared to draw drafts direct, issue letters of credit, and transfer money by mail, and cable, on all points of Europe Asia, Africa and Australia.
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TERRITORIAL OFFICERS.

Governor—C. M. ZULICK.
Secretary—JAMES A. BAYARD.
Auditor—J. J. HAWKINS.
Attorney General—RIGGS GOODRICH.
Surveyor General—JOHN A. HISE.
Treasurer—C. B. FOSTER.
Superintendent of Public Instruction—C. M. STKAUSS.
Deputy to Congress—M. A. SMITH.
Superintendent of Territorial Prison—THOS. GATES.

SUPREME COURT.

Chief Justice—JAMES H. WRIGHT.
Associate Justices—W. W. PORTER, W. H. BARNES.

DISTRICT COURT.

First Judicial District—W. H. BARNES.
Second Judicial District—W. W. PORTER.
Third Judicial District—J. H. WRIGHT.

UNITED STATES OFFICERS.

United States Marshal—W. K. MEADE.
United States Attorney—OWEN J. REUSE.

TUCSON LAND OFFICE.

Register—A. D. LIPPY.
Receiver—FRED W. SMITH.

CUSTOMS OFFICERS.

Tucson—J. H. HANFORD.
Tombstone—V. C. WILSON.
Nogales—J. M. WILSON.

COUNTY OFFICERS.

Supervisors—DAVID COHN, Chairman; F. L. MOORE and T. J. WHITE, Members.
Sheriff—L. H. SLAUGHTER.
Under Sheriff—E. A. SHATTUCK.
Treasurer—A. J. KITTER.
Recorder—W. F. BRADLEY.
District Attorney—A. R. ENGLISH.
Probate Judge—E. R. MONK.
Clerk District Court—G. H. DAILY.
Surveyor—H. G. HOWE.
Public Administrator—J. A. KOSKA.
Assessor—JAMES B. HENNESSY.

CITY OFFICERS.

Mayor—CHARLES N. THOMAS.
Chief of Police—G. W. OAKS.
Treasurer—J. L. MELGREN.
City Attorney—JAMES REILLY.
Auditor and Recorder—M. G. CROWLEY.
City Assessor—G. W. CHAPMAN.
City Engineer—H. B. MAXSON.
Councillors—First Ward, H. E. LEA; Second Ward, JON JONES; Third Ward, G. R. WATT; Fourth Ward, S. C. BAGG.

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Howard's One Summer.
Mrs. Ward's "Miss Brutherton."
Robert Jackson's Z. Ph.
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Carey's For Lila.
Mrs. Dohlgren's Lost Name.
Thompson's Love Extreme.

Green's Hand and Ring.
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